

**13-3967. Release on bailable offenses before trial; definition**

- A. At his appearance before a judicial officer, any person who is charged with a public offense that is bailable as a matter of right shall be ordered released pending trial on his own recognizance or on the execution of bail in an amount specified by the judicial officer.
- B. In determining the method of release or the amount of bail, the judicial officer, on the basis of available information, shall take into account all of the following:
1. The views of the victim.
  2. The nature and circumstances of the offense charged, **THE DEFENDANT'S POTENTIAL FOR VIOLENCE AND ANY OTHER EVIDENCE THAT THE DEFENDANT POSES A DANGER TO OTHERS IN THE COMMUNITY, INCLUDING THE RESULTS OF A DOMESTIC VIOLENCE RISK OR LETHALITY ASSESSMENT.**
  3. The weight of evidence against the accused.
  4. The accused's family ties, employment, financial resources, character and mental condition.
  5. The results of any drug test submitted to the court.
  6. Whether the accused is using any substance if its possession or use is illegal pursuant to chapter 34 of this title.
  7. Whether the accused violated section 13-3407, subsection A, paragraph 2, 3, 4 or 7 involving methamphetamine or section 13-3407.01.
  8. The length of residence in the community.
  9. The accused's record of arrests and convictions.
  10. The accused's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.
  11. Whether the accused has entered or remained in the United States illegally.
  12. Whether the accused's residence is in this state, in another state or outside the United States.
- C. If a judicial officer orders the release of a defendant who is charged with a felony either on his own recognizance or on bail, the judicial officer shall condition the defendant's release on the defendant's good behavior while so released. On a showing of probable cause that the defendant committed any offense during the period of release, a judicial officer may revoke the defendant's release pursuant to section 13-3968.
- D. After providing notice to the victim pursuant to section 13-4406, a judicial officer may impose any of the following conditions on a person who is released on his own recognizance or on bail:
1. Place the person in the custody of a designated person or organization agreeing to supervise him.
  2. Place restrictions on the person's travel, associates or place of abode during the period of release.

3. Require the deposit with the clerk of the court of cash or other security, such deposit to be returned on the performance of the conditions of release.
4. Prohibit the person from possessing any ~~dangerous~~ DEADLY weapon or engaging in certain described activities or indulging in intoxicating liquors or certain drugs.
5. Require the person to report regularly to and remain under the supervision of an officer of the court.
6. Impose any other conditions deemed reasonably necessary to assure appearance as required including a condition requiring that the person return to custody after specified hours.

E. In addition to any of the conditions a judicial officer may impose pursuant to subsection D of this section, the judicial officer shall impose ~~both~~ of the following conditions on a person who is charged with a felony DOMESTIC VIOLENCE OFFENSE OR A violation of chapter 14 or 35.1 of this title and who is released on his own recognizance or on bail:

1. Electronic monitoring where available.
2. A condition prohibiting the person from having any contact with the victim.

### 3. A CONDITION PROHIBITING THE PERSON FROM POSSESSING A DEADLY WEAPON.

F. The judicial officer who authorizes the release of the person charged on his own recognizance or on bail shall do all of the following:

1. Issue an appropriate order containing statements of the conditions imposed.
2. Inform the person of the penalties that apply to any violation of the conditions of release.
3. Advise the person that a warrant for his arrest may be issued immediately on any violation of the conditions of release, including the failure to submit to deoxyribonucleic acid testing ordered pursuant to paragraph 4 of this subsection.
4. If the person is charged with a felony or misdemeanor offense listed in section 13-610, subsection O, paragraph 3 and is summoned to appear, order the person to report within five days to the law enforcement agency that arrested the person or to the agency's designee and submit a sufficient sample of buccal cells or other bodily substances for deoxyribonucleic acid testing and extraction. If a person does not comply with an order issued pursuant to this subsection, the court shall revoke the person's release.

G. At any time after providing notice to the victim pursuant to section 13-4406, the judicial officer who orders the release of a person on any condition specified in this section or the court in which a prosecution is pending may amend the order to employ additional or different conditions of release, including either an increase or reduction in the amount of bail. On application, the defendant shall be entitled to have the conditions of release reviewed by the judicial officer who imposed

them or by the court in which the prosecution is pending. Reasonable notice of the application shall be given to the county attorney and the victim.

H. Any information that is stated or offered in connection with any order pursuant to this section need not conform to the rules pertaining to admissibility of evidence in a court of law.

I. This section does not prevent the disposition of any case or class of cases by forfeiture of bail or collateral security if such disposition is authorized by the court.

J. A judicial officer who orders the release of a juvenile who has been transferred to the criminal division of the superior court pursuant to section 8-327 or who has been charged as an adult pursuant to section 13-501 shall notify the appropriate school district on the release of the juvenile from custody.

K. For the purposes of this section and section 13-3968, "judicial officer" means any person or court authorized pursuant to the constitution or laws of this state to bail or otherwise release a person before trial or sentencing or pending appeal.